IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

**CRIMINAL WRIT PETITION NO. 1347 OF 1997**

Bharat Pradeep Sathe ..Petitioner.
V/s
State of Maharashtra & Anr. ..Respondents.

Mr. A.S. Khandeparkar for the petitioner.

Mr. P.A. Pol, APP for the respondents.

**CORAM : S.C. DHARMADHIKARI, J.**

**DATE : 28TH SEPTEMBER, 2006.**

P.C.

. By this petition under Article 227 of the Constitution of India the petitioner is challenging an order dated 28th November,1997, as also the prosecution lodged by Mahabaleshwar Police Station in C.R. No.19 of 1997 on the file of Judicial Magistrate,F.C. Wai, District Satara. In other words, the petitioner challenges an order on an application under Section 457 of Code of Criminal Procedure so also prays for quashing of the Criminal Complaint itself.

2. When rule was granted in Writ Petition No. 1239/1997 on 17th December, 1997, this Court granted

interim relief in terms of prayer clause (b). In other words, the seized Video Machines were returned to the petitioner on execution of bond of Rs. 10,000/- for each machines. By virtue of this interim order this Writ Petition itself was worked out.

3. However, later on the petition was amended and challenge was raised to the complaint itself. When the Writ Petition was placed for hearing and final disposal, I enquired from the learned Counsel appearing for the petitioner as to whether a copy of Criminal Complaint is placed on record. He sought time to place on record a copy of the criminal complaint. At his request, matter was adjourned till today.

4. The learned Counsel in all fairness states that a copy of this criminal complaint could not be placed on record even during this period. He does not have a copy with him even today. In such circumstances, I am unable to consider the request of the petitioner to quash the proceedings in the criminal complaint.

5. As far as the relief of quashing of the order dated 28th November, 1997, in my view, all that remains

is a formal order to quash and set aside the same. In the light of the fact that the machines have been returned by interim mandatary direction on execution of bond no useful purpose will be served by going into legality and validity of this order. The order is quashed and set aside in the light of interim direction of this Court.

6. In the absence of a copy of the complaint, it is not possible to go into the contentions with regard to the same allegedly not disclosing any offences. In such circumstances, I decline to consider the prayer of the petitioner for quashing of the proceedings. However, it would be open for the petitioner to raise all such contentions as are permissible in law, including placing reliance upon a Judgment of this Court in Criminal Writ Petition No. 580/1988 decided by Single Judge on 22nd October, 1992. All such contentions be raised at an appropriate stage and the learned Magistrate to deal with them and pass necessary orders in accordance with law uninfluenced by the fact that this Court was not inclined to quash the proceeding. All contentions of both sides are kept open.

**( S.C.DHARMADHIKARI, J.)**